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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/707,074 | 11/19/2003 | Peter Dean Swartz | GENSP052 | 1073 |
| 22434 | 7590 | 07/15/2008 | EXAMINER | |
| BEYER WEAVER LLP P.O. BOX 70250 OAKLAND, CA 94612-0250 | | | RICHER, AARON M | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2628 | |
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| | | | 07/15/2008 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/707,074

Applicant(s)

SWARTZ ET AL.

Examiner

AARON M. RICHER

Art Unit

2628

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 June 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Kee M Tung/
Supervisory Patent Examiner, Art Unit 2628

Continuation of 3. NOTE: Since the claims have eliminated the subject matter brought in in the amendment before the final rejection, further consideration would be necessary to determine whether the Elliott reference is still necessary to render the claims obvious. The amendment does not place the application in better form for appeal, because applicant would be appealing the Perlman/Shigeta/Elliott obviousness grounds of rejection in claims 1, 12, and 23, while the amendment may actually require the Elliott reference to be removed, and hence different grounds of rejection to be applied.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues that Perlman does not teach configurable image converters, rather simply teaching converting interlaced to non-interlaced images. Examiner notes that figures 3a and 3b clearly teach that the converter in Perlman is configurable to display on an interlaced or non-interlaced display. Figure 3a shows the process the converter is configured for in the non-interlaced display case, while figure 3b shows the process the converter is configured for in the interlaced display case.

Applicant further argues that the system of Perlman determines display characteristics rather than having the display itself provide these characteristics. Examiner recognizes this but notes that the final rejection states that it is the Shigeta reference which teaches determining a display's attributes through information (such as DDC or EDID) from a display.

Applicant further argues that Perlman teaches content converted to progressive format even in the case where the display is interlaced. Examiner notes that the point of this appears to be to make sure all content is in the same (progressive or interlaced) format for compositing. Examiner also notes that after data has been composited in Perlman, a flicker filter is used specifically for the purpose of displaying on an interlaced screen (see p. 3, section 0028). The flicker filter is not used for progressive displays, and this shows that the invention of Perlman is differently configurable for progressive and interlaced screens.